

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 5.6. Interchangeable Air Pollution Emission Reduction Credits

Article 3. Criteria and Methodology for Generation and Use of Interchangeable Credits

§ 91506. Generation and Use.

(a) Districts shall adopt rules which, at a minimum, comply with the provisions of this subchapter and with sections 40920.6(c) and (d) and 40709-40714.5 of the Health and Safety Code prior to allowing the use of interchangeable credits to meet District requirements other than the offset provisions of their new source review programs.

(b) Interchangeable credits must be certified by the District in which the generation occurs and registered in that District's emission reduction credit bank prior to use. Districts within the same nonattainment area may establish a multi-district banking program.

(c) Districts, in consultation with the Air Resources Board, shall adopt enforceable technical protocols that define how emission reductions will be calculated for purposes of certifying them as interchangeable credits.

(d) Use of interchangeable credits must, in the aggregate, result in no greater annual pollutant-specific emissions than would have occurred in lieu of trading, consistent with the District's portion of the air quality plan. The assessment of equivalency shall take into account the exceedance season for each affected nonattainment pollutant.

(e) Districts shall ensure compliance with federal, state and District requirements governing credit generation and use through permit conditions or other enforceable instruments.

(f) Districts shall not allow the use of emission reduction credits to comply with the "best available control technology" requirements of sections 40405 and 40918-40920.5 of the Health and Safety Code, or with any technology-based requirements of sections 111, 169, 171 and 173 of the federal Clean Air Act (42 U.S.C. 7411, 7479, 7501, 7503).

(g) Districts may authorize the use of interchangeable credits consistent with any federal, state, or local requirements applicable to toxic air contaminants, only if allowed by regulations established pursuant to section 39665 et seq. of the Health and Safety Code, and section 112 of the federal Clean Air Act (42 U.S.C. 7412).

(h) Surplus emission reductions that meet the requirements of Health and Safety Code section 40714.5 can be used to create interchangeable credits. If not already accounted for in District air quality plans, baseline emissions from qualifying sources must be included and accounted for in the next update to the plan.

(i) Emission reduction credits from permitted stationary sources that were certified and banked solely for use in a District's new source review program must be included and accounted for in the air quality plan prior to use in a interchangeable credit trading program.

(j) Emission reduction credits or market-based trading instruments generated under programs authorized by Health and Safety Code sections 39616 and 40440.1 may be used interchangeably outside the market incentive program only upon a determination by the District, based upon a study conducted by the District that, in the aggregate, such credits represent real reductions, and provided that:

(1) The District submits its request and the above study to the ARB at least 120 days prior to the intended interchangeable use of those credits outside of the original market incentive program.

(2) ARB concurs in writing that the District's submittal regarding the interchangeable use of such credits complies with all applicable requirements, including the criteria in Health and Safety Code section 39616(c), as it pertains to this program. ARB shall provide a written response containing its finding within 90 days of receipt of the District's submittal.

(k) District rules shall provide for assessment and consideration of potential localized impacts that use of interchangeable credits may have on the public's exposure to air pollution.

(l) In no case shall the generation and use of credits result in a total facility-wide health risk from toxic air contaminants identified pursuant to Health and Safety Code section 39657 that exceeds a District established significance threshold applicable to emissions trading. Health risk shall be assessed using cancer potency values and reference exposure levels established by the Office of Environmental Health Hazard Assessment, pursuant to section 44360(b)(2) of the Health & Safety Code. District programs shall provide for public disclosure of any increase in emissions of toxic air contaminants which results in a total facility-wide cancer health risk above ten in one million or a total facility hazard index greater than 1.

NOTE: Authority cited: Sections 39600, 39601 and 39607.5(a), Health and Safety Code. Reference: Sections 39607.5(b), 40709-40714.5 and 40920.6(c), Health and Safety Code.

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